HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22938 of 2006

Dated:06.11.2006

Between:

Veerapuneni Shivaji.

…Petitioner

and

The Asst.Divisional Engineer Operations, and another.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22938 of 2006

ORDER:

The petitioner herein purchased agricultural land in Gavaravaram Village of Koyyalagudem Mandal in West Godavari District, which had the electricity Service Connection bearing No.204 in favour of the petitioner's vendor, Tadikimalla Gandhi. The connection was obtained under Category-V for agricultural purpose. But, subsequently, the petitioner started a commercial venture by raising Jam Oil plantation. He did not get the Service Connection transferred in his favour. Be that as it is, the first respondent inspected the petitioner's premises on 16.06.2006 and found that the Service Connection is not billed under Category II, that the petitioner exceeded the sanctioned contracted load, and that he is required to pay a sum of Rs.1,12,969/-, being the difference in the tariff. The petitioner was asked to make a representation and pay the amount along with Rs.40,000/- towards Development Charges and Rs.10,000/- towards Security Deposit. The first respondent disconnected the power supply on 24.10.2006. Aggrieved by the same, the present Writ Petition is filed.

Though the Provisional Assessment Order was issued, the power supply was not immediately disconnected. The petitioner was

given time to pay the Development Charges and Security Deposit along with difference of tariff within a period of seven days. The petitioner did not pay the amount, and therefore, the first respondent waited for almost four months before disconnecting the power supply. Learned Counsel for the petitioner, however, submits that though an appeal is provided under Section 127 of the Electricity Act, 2003 (for short 'the Act'), unless and until a Final Assessment Order is passed by the competent Assessing Authority, he cannot seek remedy before the second respondent. He also submits that the petitioner has orally requested the Divisional Engineer in this regard for redressal, but he did not receive any response. Opposing the Writ Petition, the learned Standing Counsel for the Andhra Pradesh Eastern Power Distribution Company Limited (APEPDCL) submits that at the provisional assessment stage, the petitioner was given sufficient time and he did not even make a representation to the authority concerned. He also submits that the petitioner used the power supply for the purpose for which it was not authorized, and therefore, the case falls under Section 126(1) of the Act.

As rightly pointed out by the learned Standing Counsel if a person used electricity for the purpose other than for which the usage of electricity is authorized, the same is deemed to be unauthorized use of electricity attracting the provisions of Section 126(1) of the Act. Now that the Provisional Assessment Order is served under Section 126(2) of the Act, the petitioner may approach the concerned Divisional Engineer within a period of one week raising all grounds and seeking exoneration from the charge of unauthorized use of electricity. As and when the petitioner makes a representation, the concerned Divisional Engineer, Assessment, APEPDCL, shall consider and pass appropriate orders within a period of two weeks thereafter. In the meanwhile, if the petitioner desires to avail power supply, he may pay the Development Charges of Rs.40,000/- (Rupees Forty Thousand only) and Security Deposit of Rs.10,000/- (Rupees Ten Thousand only) immediately and approach the first respondent; then power supply shall be restored by the latter.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

06.11.2006
vs